

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARTHA ZEPEDA OLIVARES,
individually and on behalf of the
ESTATE OF MAXIMILIANO SOSA,
JR.; MAXIMILIANO SOSA, SR,

Plaintiffs,

v.

CITY OF FRESNO; UNKNOWN
LAW ENFORCEMENT OFFICERS,
POLICE CHIEF PACO
BALDERRAMA and DOES 1-30,

Defendants.

Case No. 1:23-cv-01575-JLT-SAB
Dist. Court Judge Jennifer L. Thurston
Magistrate Judge Barbara A. McAuliffe

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS PORTIONS OF
PLAINTIFF'S FIRST AMENDED
COMPLAINT**

Hearing Date: October 11, 2024
Time: 9:00 a.m.
Courtroom: 4

Action Filed: 02/23/2024
Trial Date: Not Yet Set

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to the Court's inherent and statutory authority, including but not limited to the Court's authority under the applicable Federal Rules of Civil Procedure, including but not limited to Federal Rules of Civil Procedure 12 *et seq.*, as well as the applicable United States District Court, Eastern District of California Local Rules, and Orders of the Court; after due consideration of all of the relevant pleadings, papers, and records in this action; and upon such other evidence or argument as was presented to the Court; Good Cause appearing therefor and in furtherance of the interests of justice,

IT IS HEREBY ORDERED that:

1. The Court hereby GRANTS Defendants' Motion to Dismiss Portions of Plaintiffs' First Amended Complaint;

2. The Court hereby dismisses Plaintiffs' fifth claim for violation of the Americans with Disabilities Act and Rehabilitation Act ("ADA") in its entirety for failure to state a claim upon which relief can be granted;

3. Additionally, in light of the foregoing, the Court finds that Plaintiffs cannot amend their First Amended Complaint to correct such defects. Accordingly, the Court hereby denies Plaintiffs leave to amend their First Amended Complaint.

IT IS SO ORDERED.

Dated:

Hon. Dist. Court Judge Jennifer L.
Thurston

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